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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifth session

SUMMARY RECORD OF THE 106th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 January 1994, at 10 a.m.

Chairperson: Mrs. BADRAN

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Mexico

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 5)

Mexico (CRC/C/3/Add.11; HRI/CORE/1/Add.12; CRC/C.4/WP.3)

At the invitation of the Chairperson, Mrs. González Martínez and Mrs. Paz Campos (Mexico) took seats at the Committee table.

1. The CHAIRPERSON welcomed the Mexican delegation and invited it to introduce the report of Mexico (CRC/C/3/Add.11) and to respond to the list of issues (CRC/C.4/WP.3) to be taken up in connection with it, starting with the section entitled "General measures of implementation", based on articles 4, 42 and 44, and paragraph 6 of the Convention. The issues were as follows:

"General measures of implementation

(Arts. 4, 42 and 44, para. 6 of the Convention)

1. Please provide more details about the process of preparing the report, in particular with regard to popular participation and the involvement of non-governmental organizations.

2. What concrete measures have been taken to make the report widely available to the public at large?

3. What further steps are planned for creating more widespread awareness among adults and children about the principles and provisions of the Convention (para. 14 of the report)?

4. What overall plans exist at present, to implement the provisions of the Convention at the national and local level? Please describe the steps taken to implement article 4 in regard to the allocation "to the maximum extent of (...) available resources for the rights of the child". Please indicate what proportion of the national budget is allocated to social priorities for children in official budgets, both central and local. What indicators or target figures are used in this context?

5. Please list any new legal codes (or amendments to previous laws) which have been adopted in the spirit of the Convention.

6. Please provide information on measures taken to establish mechanisms for collecting statistical data and other necessary information about the status of children as a basis for designing programmes for the rights of the child.

7. To what extent is international cooperation designed in order to enhance the implementation of the Convention? What share of international assistance is devoted to programmes which benefit children?"

2. Mrs. GONZÁLEZ MARTÍNEZ (Mexico) said that her delegation welcomed the opportunity of meeting the experts of the Committee and she expressed its appreciation at their invaluable work under the provisions of the Convention.

3. The Government of Mexico was doing its utmost to ensure the attainment of the targets set by the World Summit for Children and consequently the full implementation of the Convention through follow-up activities carried out in accordance with its National Programme of Action. Those activities were monitored on a regular basis by a commission headed by the President of the Republic. However, despite the priority accorded to such efforts, many problems remained and the budgetary resources available were often inadequate, due primarily to the steady growth in the population (2.06 per cent).

4. She drew attention to a number of documents and publications circulated for information which gave some insight into the kind of difficulties encountered by the Government of Mexico and the programmes under way to resolve them. They included, for instance, a brochure containing a brief description of the National Programme of Action. There were copies of the illustrated version of the Convention on the Rights of the Child published by the National Human Rights Commission with children in mind and distributed in schools throughout the country. Another illustrated version of the Convention was circulated in some States by the National System for the Integral Development of the Family (DIF). Moreover, special educational games for children on the theme of the Convention had also been issued. The Second Evaluation of the National Programme of Action had just been published; the First Evaluation was reproduced in annex to CRC/C/3/Add.11. Other material provided showed how public awareness on children's issues was aroused, information was disseminated and the public, especially young people, were involved in projects to help children such as the competition organized in November 1993 to manifest solidarity with "street children".

5. In response to issue No. 1, she said in 1991 that a working group composed of representatives from the relevant government departments had started work and had completed a first draft of the initial report. However, it had subsequently been revised to bring it into line with the agreements reached at the World Summit for Children. The second draft had then been circulated to all government departments as well as the National Human Rights Commission and subsequently to the non-governmental organizations (NGOs) that so requested. To her knowledge, the draft had also been forwarded to the Mexican Centre for the Rights of Children (CEMEDIN).

6. Turning to issue No. 2, she said that the Summit had provided an opportunity to create awareness about Mexico's commitments in the field of children's rights. The meetings of the commission set up to evaluate the activities of the National Programme of Action had been attended inter alia by the Executive Director of the United Nations Children's Fund (UNICEF). The results of the third evaluation would be published shortly. Likewise, the report before the Committee had been sent to and commented on by a number of organizations, including UNICEF, the relevant government departments as well as NGOs and other international organizations concerned.

7. As to issue No. 3, she said that the mass media was used as much as possible to inform the public of its duty to care and protect children as well

as about the national programmes under way to that end. Moreover, the results of the evaluation of such activities were circulated among the relevant State departments and made available to NGOs. One of the principal means of conveying information concerning the Convention was through short films broadcast either on national television or shown at social centres.

8. In response to issue No. 4, she stressed that care had been taken when drafting the National Programme of Action to avoid any overlapping with similar schemes such as the National Development Plan 1989-1994. The National Programme of Action encompassed a multifaceted approach to ensure the survival, protection and development of children and their mothers and drew on the participation of all sectors of society. Its legal basis was the Convention, while its objectives were in line with the targets set at the World Summit for Children. Apart from the National Programme of Action, each State had its own programme geared to meet specific needs and funded by its own budget. Some municipal programmes also existed in larger States. The priority accorded to the National Programme of Action was reflected by the national budgetary allocation for children, which had increased by 130 per cent between 1990 and 1993. Fifty-two per cent of the 1993 allocation had been earmarked for health; 39.6 per cent for basic education; 5.6 per cent for sanitation and 2.5 per cent for the Juveniles in Special Circumstances Programme (MESE).

9. With regard to issue No. 5, she referred the Committee to paragraphs 10 to 14 of the report (CRC/C/3/Add.11), explaining that since most relevant Mexican legislation was in conformity with the provisions of the Convention, few amendments had been necessary. However, two major reforms had been introduced in the areas of the treatment of juvenile offenders and education. The new Law on the Treatment of Juvenile Offenders for the Federal District and non-federal matters, published in the Diario Oficial de la Federación in January 1991, was based on the Beijing Rules and Riyadh Guidelines; it conferred on minors the status of subjects of law and sought their social adaptation. In 1993, articles 3 and 31 of Section 1, of the Constitution had been amended to ensure universal access to national education. Under the amended legislation, the State was not only obliged to provide such facilities but also to refrain from any decision or act that might impede the access of individuals of either sex at any age to education. The amendments to article 3 made primary and secondary education compulsory. Moreover, the new Section 1 added to article 31 was intended to ensure that parents or guardians allowed children to exercise their right to education.

10. Turning to issue No. 6, she pointed out that apart from the General Census of Population and Housing, information systems were coordinated by the commission in charge of evaluating the National Programme of Action. The resulting national information system drew on the information systems of various relevant government bodies responsible, inter alia, for health, public education, water and MESE. Additional information was provided by the Department of the Federal District (DDF) and the DIF as well as the National Institute of Statistics, Geography and Data Processing (INEGI).

11. Lastly, in response to issue No. 7, she stressed the vital importance of international cooperation, which had proved especially useful in helping Mexico to establish priorities in children's matters. Mexico had benefited

from the experience, skills and technical support of many organizations, including UNICEF, the United Nations Development Programme (UNDP), the Pan-American Health Organization and the International Labour Organisation (ILO).

12. The CHAIRPERSON, referring to the information provided on the budget, inquired what the current rate of inflation was in Mexico so as to enable the Committee to evaluate more accurately the real increase in the allocation for children's matters.

13. Mrs. BELEMBAOGO said that she had some queries regarding the follow-up and evaluation both of the implementation of the Convention and of the National Programme of Action. She wanted to know whether the activities of non-governmental organizations were really taken into account in such evaluation and whether they were active participants in the follow-up to the implementation of the Convention. She also pointed out that although the Convention might, as stated in Mexico's report (CRC/C/3/Add.11), be "the Supreme Law of the Land" there would be no practical effect unless judges were aware of the provisions of the Convention. She sought an assurance that the relevant laws accorded with the Convention. She suggested that the Government should review the situation so that it could discharge its obligations in that regard.

14. Mr. KOLOSOV asked whether the Mexican Government had considered what the effects of the North American Free Trade Agreement (NAFTA) would be on children. Such effects might be negative or positive.

15. Mr. HAMMARBERG welcomed the Mexican Government's assertion that despite its economic difficulties an increase in social expenditure had been possible. He pointed out, however, that according to the UNICEF publication The Progress of Nations a comparison of child mortality rates with the Gross National Product - the so-called "national performance gaps" - showed that Mexico's record was worse than that of any country in Latin America apart from Guatemala. He also wondered how the Government established systems to monitor the implementation of the Convention, as distinct from incorporating the Convention into national legislation. The National Human Rights Commission seemed to gear its implementation work only to the goals of the World Summit for Children, but other aspects of the Convention were equally important, such as the quality of education. He asked whether Mexico had anything in the nature of an ombudsman who would see that standards were maintained equally across the country.

16. Mgr. BAMBAREN GASTELUMENDI pointed out that not only was Mexico a very young country, 38 per cent of the population being under the age of 15, but many in that age group belonged to indigenous, marginalized peoples. He wondered how far that marginalized - mostly rural - population had been taken into account. Further, he expressed his concern that notwithstanding the integration of the Convention into the Supreme Law of the Land there were differences between legislation and reality. States did not necessarily keep pace with federal legislation. Traffic in minors, for example, was not an offence in some States. There were also discrepancies in approaches to adoption and to juvenile offenders. Lastly, he asked why there had not been greater participation by non-governmental organizations in implementing the

Convention and why the report had not been widely disseminated. He urged the Government to work more closely with non-governmental organizations.

17. Mrs. SARDENBERG requested further details of political arrangements in Mexico. Pointing out that human rights legislation differed from one State to another, she wondered how that affected children's rights. She also wished to know how efforts to implement the Convention were integrated with, for example, the National Programme of Action and whether there was any coordinating committee for that purpose. Like Mr. Hammarberg, she saw the danger of concentrating too much on the targets of the World Summit for Children. She asked also whether the Mexican Government had taken any action to disseminate the Committee's conclusions, as some Governments did. With regard to the children's lottery, she asked whether it was a game for children or whether it conveyed information about the Convention. Lastly, she asked whether the International Labour Organisation had been requested to give advice on the issue of non-discrimination.

18. Miss MASON asked how, given that the States were autonomous, the Mexican Government dealt with the disparity in conditions between the urban and the rural areas.

19. Mrs. EUFEMIO, noting that the National Programme of Action was evaluated twice-yearly, asked whether there had been a study of the situation of children in Mexico and, if so, whether there had been an update between 1990 and 1993. She also noted that the Programme made no mention of civil rights and freedoms: she was particularly concerned to know how far children were given the opportunity to express themselves within the family and in school. Lastly, she asked whether there was any feedback mechanism to ensure continuity in the expression of public concern.

20. Mrs. SANTOS PAIS said that she wished to focus on the value of the Convention within the framework of national legislation. Although the report stated (para. 12) that the Convention would be "the Supreme Law of the Land", no details were given. It did not follow, however, that the Convention could be invoked by the courts nor that additional specific measures might not be necessary in order to implement the Convention more effectively. In other words, the philosophy of the legislation might not take account of the philosophy of the Convention. Thus, for example, Mexican legislation provided for the protection of children, which was admirable, but took less account of the need for participation by children. That was why she wished to know whether the Convention could be invoked in the courts or by civil servants and whether it could supersede other national legislation that might run counter to it.

The meeting was suspended at 11.30 a.m. and resumed at 11.40 a.m.

21. Mrs. GONZÁLEZ MARTÍNEZ (Mexico) said that several of the points raised were covered in the information provided by Mexico. Where information was insufficient she would submit it later in writing.

22. With regard to Mrs. Belembaogo's question on the evaluation of the implementation of the Convention, the Government had taken pains to cover the relevant aspects of the Convention when drawing up the National Programme of Action.

23. Turning to the question of the force of the Convention in the Mexican courts, she said that it could be invoked in two ways, depending on the level of the court. Any treaty or convention signed by Mexico was integrated into national legislation at the highest level. She drew a distinction, however, between the Supreme Law and the organic law, which was administrative and technical. Its function was regulatory, which meant that it was applied to such matters as children's health and protection. Sectoral laws, meanwhile, covered issues like the employment of children. The authorities were trying to ensure that lawyers were fully acquainted with all aspects of the Convention so that they could invoke it with full authority before the courts.

24. Answering the question by Mr. Hammarberg, she said that there was no ombudsman in Mexico for children as such. However, there was a post which could be compared with that of ombudsman, a National Human Rights Commission and commissions in all the States which included the protection of the rights of the child in their activities. The National Human Rights Commission monitored the National Programme of Action although it was not directly responsible for following up implementation of the Convention.

25. Mexico had been successful in publicizing and providing information on the Convention across the board. However, there was still room for improvement and she would recommend that courses and seminars be held, particularly for people working in the legal profession.

26. In reply to the question by Mr. Kolosov, she said that prior to the signing of the North American Free Trade Agreement (NAFTA), national consultations had been held but there had been no in-depth analysis of the effect it would have on the economic, social and cultural life of children as distinct from the rest of the population.

27. Mr. Hammarberg had referred to a UNICEF publication entitled The Progress of Nations which had compared the child mortality rate with the Gross National Product. However, she wished to point out that the UNICEF publication State of the World's Children issued in 1993, indicated that there had been a very significant decrease in the child mortality rate in Mexico. UNICEF was also directly involved in evaluating the impact of Mexico's National Programme of Action.

28. Turning to the questions by Mgr. Bambaren Gastelumendi, she said that in line with Mexico's campaign to publicize the Convention, texts had been distributed both to rural and urban schools. The indigenous population was the weakest sector in Mexico and there was a huge difference between the conditions and situation of indigenous populations in rural and urban areas. Mexico was doing everything in its power to ensure respect for the culture and traditions of indigenous people. The recent constitutional reforms assured

even further the protection of their cultural life and heritage. Never before had indigenous people enjoyed such a panoply of constitutional safeguards and rights.

29. The Government of Mexico had taken an innovative approach to raising awareness of the Convention. It was trying to reach the youngest members of society the Convention was designed to protect. The popular game of bingo had been adapted, making it suitable for use as an educational instrument in which instead of numbers, references to the Convention were called out by the teacher, and scored off on the children's game cards.

30. On the question of harmonizing legislation between the Federation and the States, she said that everything possible was being done to urge the Judiciary to harmonize legislative instruments. With regard to the traffic in minors, different penalties were applied in different States. Efforts would be made to introduce a single penalty which would be universally applicable. With regard to the legislation concerning adoption, each State had drawn up its own rules and regulations, although moves were afoot to assure a common policy.

31. In reply to the question of why NGOs had not been invited to participate in the preparation of the report of Mexico, she explained that such an idea was new to her country which, however, intended to call upon their experience in the preparation of future reports.

32. Concerning the relationship with international agencies such as the ILO, there were a number of projects and programmes in Mexico which had either been set up or were assisted by the ILO. The ILO was also working closely with UNICEF in Mexico.

33. In reply to Miss Mason's question, the efforts being made were helping to narrow the gap between rural and urban areas. Mexico, concerned at the demographic drift towards urban areas, was keen to provide conditions which would induce the rural population to remain in rural areas. Unfortunately, the market economy was not helping the situation in so far as market forces tended to dictate the pace and site of investment, usually where there was a large potential market, as found in urban areas.

34. Turning to Mrs. Eufemio's question, she said that before the Convention had been ratified by Mexico and prior to the World Summit for Children in November 1991, a full inventory of the situation of children in Mexico had been made. However, she was not aware of whether it had been kept up to date. The National Programme of Action included an analysis of the situation of children, and through its programmes, Mexico was trying to meet the targets set out at the World Summit for Children. The Convention was providing the legislative framework for those programmes, and the political Constitution was also designed to protect the rights of children, particularly their civil rights. The first chapter of the Constitution provided safeguards for everyone regardless of whether they were Mexican or not.

35. The CHAIRPERSON drew attention to the section of the list of issues entitled "Definition of the child" issued in document CRC/C.4/WP.3 which read:

Definition of the child

(Art. 1 of the Convention)

1. Please clarify the meaning of paragraph 15 of the report vis-à-vis paragraph 17. It appears that although a person under 18 years enjoys the status of "national" he/she is not considered a citizen. Please also provide clarification on paragraph 44 of the report concerning the acquisition of Mexican nationality.

2. Please provide information on the minimum legal age for criminal responsibility, legal and medical counselling without parental consent, sexual consent and imprisonment. Please also indicate if there are any differences in these regards among the various federal States.

3. How does the minimum age for employment compare with the age of completion of compulsory schooling?

36. Mrs. SANTOS PAIS said that she had not understood the difference between nationality and citizenship in Mexico. It seemed that children were not citizens because they could not exercise their rights except through a representative such as a legal guardian. That appeared to be incompatible with articles 5 and 14 of the Convention, which stipulated only that children should be given direction and guidance in the exercise of the rights recognized in the Convention. Paragraph 28 of Mexico's report referred to constitutional guarantees of equality in the exercise of individual rights by minors. Mexican children ought therefore to be able to exercise their rights independently.

37. It appeared that the minimum legal age for criminal responsibility was generally 18 years but lower in some parts of Mexico. It was difficult to see how children could be treated equally if their status in that respect depended on their place of residence. Article 40, paragraph 3 (a), of the Convention clearly did not allow for different ages of criminal responsibility. Furthermore, the fact that the minimum age of marriage was lower for girls than for boys amounted to discrimination on the basis of sex incompatible with article 2 of the Convention, especially since from the age of marriage children could be regarded as adults and therefore not protected by the Convention.

38. Mrs. GONZÁLEZ MARTÍNEZ (Mexico) said that in Mexican law nationality was not synonymous with citizenship. Children were nationals but not legally citizens since they did not have the legal capacity to exercise their rights independently: they had to be accompanied by an adult when legally exercising their rights. In practice, of course, children could exercise such rights as freedom of assembly simply by gathering together in a park, provided that in so doing they respected the rights of others.

39. Mrs. SANTOS PAIS said that the Committee was concerned with the exercise of the rights recognized in the Convention. Meeting in a park did not amount to exercise of the freedom of assembly. The problem was an interesting one which would have to be looked into in greater detail at a later stage.

40. The CHAIRPERSON drew attention to the section of the list of issues entitled "General principles" issued in document CRC/C.4/WP.3 which read:

General principles

Non-discrimination (article 2)

1. Please indicate specific and concrete measures taken to combat discrimination against girls/rural children/children belonging to minorities or indigenous communities/refugee children/asylum-seeking children/disabled children, including measures to eliminate and prevent discriminatory attitudes and prejudices.

2. What efforts are being made to collect disaggregated data for groups of children on aspects relating to the Convention?

3. Are there any specific legislative provisions on non-discrimination in relation to children?

Best interests of the child (article 3)

4. Please indicate the ways in which the "best interests of the child" are taken into consideration in legislation as well as in judicial, administrative or other proceedings (para. 30 of the report).

Respect for the views of the child (article 12)

5. What concrete measures have been taken to sensitize public opinion and to educate personnel working with children about the need to encourage children's participatory rights?

6. Please indicate the way in which the principle of respect for the views of the child is reflected in all matters affecting the child, in particular in judicial and administrative proceedings.

41. Mrs. GONZÁLEZ MARTÍNEZ (Mexico) said that there was no discrimination as such against children in the categories listed in issue No. 1. There might, however, be discrimination against poorer children, on the grounds of their poverty, in some areas of society. That was a traditional prejudice not limited to Mexico.

42. Although many measures had been introduced to prevent discrimination against women and ensure their equality of treatment with men, women still found themselves in a worse position than men in Mexico. It would take years to change traditional attitudes about the different roles of men and women, especially in rural areas where the prevailing view was that the women were subordinate to men.

43. The age of marriage was lower for girls than for boys because girls matured psychologically earlier than boys. However, the situation certainly amounted to discrimination and the Mexican Government was concerned to change

it. It should be remembered that a child might be mature enough to marry but could still not exercise his or her political and other rights until reaching the legal age of majority - 18 years.

44. As could be seen from the national programmes listed on pages 8 and 9 of the written replies, Mexico's approach was to tackle groups of problems rather than different groups of children. The programmes were certainly applied equally to girls and boys.

45. She believed that she had dealt with issue No. 2 in her answer to issue No. 6, concerning statistical data, under general measures of implementation.

46. With regard to question 3, she could only repeat that under article 1 of Mexico's Constitution all persons without exception or discrimination enjoyed the guarantees provided by the Constitution. However, there was no specific provision stating that children must not be subjected to discrimination.

47. Turning to issue No. 4, she said that the best interests of the child were taken into account not only in the Constitution but also in later legislation such as the constitutional reforms relating to education. Article 4 of the Constitution stipulated that the State was responsible for the protection of minors, and specific legal protection for minors was provided in article 107, paragraph 1, of the Constitution and its corresponding regulations, in article 76 bis, paragraph 15, of the ley de amparo, and in article 941 of the Code of Civil Procedure. In short, the best interests of the child were taken into account in all the legal and administrative procedures of all public organs dealing with minors.

48. With regard to issue No. 5, the teaching profession and parents' associations were active in promoting on radio and television the activities of various public bodies concerned with children, and information materials concerning the rights of children, including their right to express their opinions, had been produced for the electronic media. Children were in fact depicted having discussions with older family members in which their views were heeded. In 1994 a start was to be made on the production of programmes and materials dealing with the protection and development of children.

49. The principle of respect for the views of the child (issue No. 6) was reflected both in the Code of Criminal Procedure and in the Code of Civil Procedure: statements made by children were accorded equal status with those made by adults. Family court judges and public bodies responsible for the administration of family law were required to listen to the views of children when they wished to express them, but children could not be compelled to make statements.

50. Mr. HAMMARBERG said that non-discrimination was a core aspect of the Convention which provided important elements for Mexico's National Programme of Action. Only that morning a spokesman for Mexico's Ministry of the Interior had said in a television news programme that the challenge to Mexico was social justice. If you were a poor indigenous child in Mexico you were

automatically discriminated against. It was not sufficient to cite laws, and although it was difficult to change prejudices the Mexican Government must adopt a proactive policy to that end.

51. Mexico's report did not deal adequately with action taken to close the gap where poor children were concerned. For example, Mexico had a very high rate of undernourishment for a country with such abundant resources. There must be more discussion of how discrimination against social groups living in poor rural areas could be corrected. The fact that Mexico's economy was market-oriented did not relieve the authorities of their responsibility to provide adequate basic standards for all Mexicans.

The meeting rose at 1.05 p.m.